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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/781,001  | 02/09/2001  | Michael B. Stennicke | 24193-00            | 6428             |
| 26418   | 7590        | 08/19/2005           | EXAMINER            |                  |
| REED SMITH, LLP<br>ATTN: PATENT RECORDS DEPARTMENT<br>599 LEXINGTON AVENUE, 29TH FLOOR<br>NEW YORK, NY 10022-7650 |             |                      | SHINGLES, KRISTIE D |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2141                |                  |

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/781,001

Applicant(s)

STENNICKE, MICHAEL B.

Examiner

Kristie Shingles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### Per Applicant's Request for Continued Examination:

*Claims 1 and 5 have been amended.*

*Claims 1-9 are pending.*

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/6/2005 has been entered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kenner et al* (US 5,956,716) and further in view of *Inoue* (US 6,567,847).

a. **Per claim 1**, *Kenner et al* teach a method of exchanging multimedia data among at least one master and a plurality of catchers over an electronic network of computing devices, the data being exchanged among a plurality of computing devices connected to the network, at least one of the plurality of computing devices performing functionality of an exchange, the method comprising the steps of:

- preparing by the master of at least one tender for requesting multimedia data of interest and submitting said tender to one or more of the plurality of catchers (Fig.1 and col.4 lines 54-59; user builds request and submits it to a local storage and retrieval unit which then forwards the request to the primary index manager);
- acquiring and uploading by the one or more of the plurality of catchers said requested multimedia data to the exchange (col.5 lines 8-16; the data sequencing interface collects the data and transmits it to the primary index manager and/or local storage and retrieval units); and
- selecting by the master among said uploaded multimedia data by downloading said selected multimedia data from the exchange (col.5 lines 17-20; from the local storage and retrieval units; the data is downloaded to the user's terminal).

*Kenner et al* teaches that once the location of the requested data is found the storage and retrieval units download the data for storage and transmission to user terminals and audio-visual segments and textual segments are stored in the primary index manager or the one of the local/remote storage and retrieval units (col.10 lines 40-57, col.16 lines 44-61, col.19 lines 22-30, col.32 lines 64-col.33 lines 1-20). However, *Inoue* explicitly teaches acquiring desired media data by recording and uploading the media to an information center (Figures 1 and 34, col.7 lines 3-65, col.8 lines 24-39, col.8 line 64-col.9 line 47, col.10 line 5-17, col.25 line 13-col.26 line 51, col.28 line 51-col.29 line 67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Kenner et al* and *Inoue*, in order for a user to record desired data requested by another user and upload the data to a central server or information center in order for requesting user to download the data. It is common for users to participate in file sharing wherein one user acts as the “upload user” while another user acts as the “download user”. Implementing an exchange/information center for the data provides storage for all data requested and acquired, useful for archiving and quick access.

b. **Per claim 2**, *Kenner et al* and *Inoue* teach the method of claim 1, *Kenner et al* further teach the method further including a step of registering a plurality of users, said plurality of users being indexed as the master and/or as a catcher of said plurality of catchers (col.24 lines 47-50 and col.21 line 36-col.22 line 1-60; *Inoue*: Figures 2 and 34, col.7 line 63-col.8 line 6, col. 25 lines 51-58, col.42 lines 1-56).

c. **Per claim 3**, *Kenner et al* teach the method of claim 2, wherein the step of preparing and submitting said tender further including steps of:

- creating a data path over the network between the exchange and one of the plurality of computing devices used by the master (col.4 lines 43-53 and col.8 lines 51-65; a datapath is implemented by virtue of the distributed computer system or network where users can communicate with the storage unit and database managers) ;
- presenting said tender to said exchange by e-mail or posting on exchange's web page (col.33 lines 38-57 and col.34 lines 29-39; by signing up for subscriptions on web pages the requests are thereby posted onto web page or the web server and subscriptions maintained and acknowledged at the primary index manager—using browser extensions to submit requests to the primary index manager also qualify as postings); and

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- selecting one or more of the plurality of catchers to whom said tender should be routed and routing said tender to the selected catchers (col.4 lines 54-66, col.15 lines 24-30, and col.10 lines 10-21; the primary index manager and storage retrieval unit both route the request depending on where the data is located, if data is not available at the local storage and retrieval unit, then the primary index manager selects remote devices to ascertain the data).

d. **Per claim 4**, *Kenner et al* teach the method of claim 3, wherein the step of routing is performed by e-mailing said tender to the selected catcher or posting said tender in an electronic mail box of the selected catcher on a web page of the exchange (col.13 lines 35-54 and col.23 line 66-col.24 line 1-13).

e. **Per claim 5**, *Kenner et al* teach the method of claim 4, wherein said step of acquiring and uploading further includes the steps of: creating thumbnails and descriptions for each unit of said multimedia data (col.18 lines 44-58, col.19 lines 40-48, col.28 lines 18-58, and col.31 lines 65-col.32 lines 1-8 and 38-50; *Inoue*: col.8 lines 7-23).

f. **Per claim 6**, *Inoue* teaches the method of claim 5, wherein said step of recording further including the step of directing in real-time by the master of the catcher in recording of said requested multimedia data (col.42 lines 4-45).

g. **Per claim 7**, *Kenner et al* teach the method of claim 5, wherein the step of selecting further including the step of listing all the multimedia submitted in reply to said tender and all the multimedia that was uploaded to the exchange in the past and is equivalent to the tender (col.5 lines 1-7 and col.23 lines 14-23; *Inoue*: col.7 line 58-col.8 line 38, col.24 line 57-col.25 line 16, col.31 line 59-col.32 line 6).

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h. **Per claim 8**, *Inoue* teaches the method of claim 7, further including the step of setting a price for each unit of said submitted multimedia data by the plurality of catchers (col.12 lines 30-35, col.28 lines 51-61; *Kenner et al*: col.33 lines 65-col.34 lines 1-15).

i. **Per claim 9**, *Inoue* teaches the method of claim 8, further including the steps of:

- billing the master with said set price of said selected and downloaded multimedia data (col.12 lines 30-35, col.24 line 66-col.25 line 7; *Kenner et al*: col.6 lines 17-26) and
- crediting the one or more catchers with the price of said selected submitted multimedia data (col.12 lines 30-35, col.28 lines 51-61, col.43 lines 7-17; *Kenner et al*: col.34 lines 16-28).

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: *Matsunaga* (USPN 5,247,670), *DeMartin et al* (USPN 6,226,672), *Engbersen et al* (USPN 6,341,304) and *McCanne* (USPN 6,785,704).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Kristie Shingles*  
*Examiner*  
*Art Unit 2141*

*kds*

  
RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER